

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Yu	Team: Squad #16	CCRB Case #: 201706385	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 07/29/2017 12:30 AM	Location of Incident: § 87(2)(b)	Precinct: 60	18 Mo. SOL 1/29/2019	EO SOL 1/29/2019	
Date/Time CV Reported Thu, 08/03/2017 11:55 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 08/03/2017 11:55 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. CPT Bruce Ceparano	00000	933682	060 PCT
2. DT3 Mitchell Eisenberg	05176	917573	060 DET

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Peter Kessler	11160	938764	060 PCT
2. POM Patrick Kurek	19134	958781	060 PCT
3. POM Stephen Ennis	20112	954772	060 DET
4. DT2 Frank Ciccone	05279	912490	060 DET
5. LT James Vroman	00000	920948	060 PCT

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Mitchell Eisenberg	Discourtesy: Detective Mitchell Eisenberg spoke discourteously to § 87(2)(b)	§ 87(2)(b)
B.DT3 Mitchell Eisenberg	Abuse: Detective Mitchell Eisenberg entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.CPT Bruce Ceparano	Abuse: Captain Bruce Ceparano threatened to arrest § 87(2)(b)	§ 87(2)(b)
D.CPT Bruce Ceparano	Abuse: Captain Bruce Ceparano threatened to arrest § 87(2)(b)	§ 87(2)(b)
E.CPT Bruce Ceparano	Abuse: Captain Bruce Ceparano threatened an individual with the use of force.	§ 87(2)(b)
F.CPT Bruce Ceparano	Discourtesy: Captain Bruce Ceparano spoke discourteously to an individual.	§ 87(2)(b)
G.CPT Bruce Ceparano	Abuse: Captain Bruce Ceparano threatened to arrest individuals.	§ 87(2)(b)
H.CPT Bruce Ceparano	Abuse: Captain Bruce Ceparano participated in the entry into § 87(2)(b) in Brooklyn.	§ 87(2)(b)

Case Summary

On August 3, 2017, § 87(2)(b) filed this complaint online on behalf of her herself and her adult child, § 87(2)(b) via the CCRB's website.

On July 28, 2017, at approximately 11:49 p.m., at § 87(2)(b)'s game stand located at § 87(2)(b) in Brooklyn, Det. Mitchell Eisenberg of the 60th Precinct Detective Squad allegedly told § 87(2)(b) (Mx. § 87(2)(b)) that he did not give a "shit" about policy (**Allegation A: Discourtesy**, § 87(2)(g)). Det. Eisenberg subsequently attempted to enter the location (**Allegation B: Abuse of Authority**, § 87(2)(g)). Det. Eisenberg and his partner PO Stephen Ennis of the 60th Precinct Detective Squad left the location without entering the location, issuing any summons, or making an arrest.

On July 29, 2017, at approximately 12:30 a.m., Capt. Bruce Ceparano threatened to arrest § 87(2)(b) for not producing video footage and for not producing a business license (**Allegation C: Abuse of Authority**, § 87(2)(g)) and **Allegation D: Abuse of Authority**, § 87(2)(g)). Capt. Ceparano is currently assigned to SRG 3, but was assigned to the 60th Precinct at the time of incident. At some point, Capt. Ceparano allegedly took out his baton and told an unidentified male to "back the fuck up" (**Allegation E: Abuse of Authority**, § 87(2)(g)) and **Allegation F: Discourtesy**, § 87(2)(g)). During the incident, Capt. Ceparano also allegedly threatened to arrest unidentified individuals (**Allegation G: Abuse of Authority**, § 87(2)(g)). Capt. Ceparano participated in the entry into § 87(2)(b) (**Allegation H: Abuse of Authority**, § 87(2)(g)).

Video footage was obtained from § 87(2)(b)'s game stand depicting her initial interaction with Det. Eisenberg and her latter interaction with Capt. Ceparano (Board Review 04 and 06).

Findings and Recommendations

Allegation A- Discourtesy: Detective Mitchell Eisenberg spoke discourteously to § 87(2)(b)

It is in dispute whether or not Det. Eisenberg told § 87(2)(b) that he did not give a "shit" about policy.

§ 87(2)(b) is the owner of § 87(2)(b) and her daughter, § 87(2)(b) was also working at the time of incident. § 87(2)(b) is located at § 87(2)(b) and there are three booths within the game stand. The game stand has counters which separate the public from the private area of the game stand and there is one swing door with a lock which allows the employees access between the public area and private area of the game stand. Additionally, there is another door behind the counter which leads into a large room and then to an office in the back where the camera system is located.

In her initial phone statement and CCRB interview, Mx. § 87(2)(b) stated that Det. Eisenberg initially asked Mx. § 87(2)(b) for video footage or to speak with "the boss" because an officer broke their leg (Board Review 01 and 02). After Mx. § 87(2)(b) spoke with § 87(2)(b) Mx. § 87(2)(b) told Det. Eisenberg that they would have to wait for their uncles in order to obtain the video footage and that they were unable to provide it at the time. In response, Det. Eisenberg told Mx. § 87(2)(b) that he "did not give a shit about policy."

In her online complaint, § 87(2)(b) stated that when Mx. § 87(2)(b) told Det. Eisenberg that he was not allowed on the premises due to insurance policies, Det. Eisenberg told Mx. § 87(2)(b) “I don’t give a shit about your policies. You’re giving me the video footage and I’ll come in if I have to! [sic]” (Board Review 36). During her CCRB interview, § 87(2)(b) stated that she did not directly hear this statement because she was helping a customer when Mx. § 87(2)(b) was speaking with Det. Eisenberg (Board Review 03). However, § 87(2)(b) stated that she was later informed by Mx. § 87(2)(b) that Det. Eisenberg stated that she was informed by Mx. § 87(2)(b) that Det. Eisenberg told Mx. § 87(2)(b) “I don’t give a shit about your policies.”

Prior to interacting with § 87(2)(b) Det. Eisenberg and PO Ennis stated that they received a radio call in regards to an officer’s request for assistance (Board Review 11 and 13). When Det. Eisenberg and PO Ennis arrived at the scene where the officer was injured, they both observed cameras at a nearby game stand which pointed towards the incident. Det. Eisenberg and PO Ennis both stated that they were going to approach the game stand to possibly obtain video footage which may have captured the police occurrence and help identify the suspects.

In his CCRB statement, Det. Eisenberg stated that when he approached the game stand, he explained the incident in regards to the officer being injured to Mx. § 87(2)(b) and told Mx. § 87(2)(b) that he needed to view the cameras (Board Review 11). Det. Eisenberg did not recall having any discussions with Mx. § 87(2)(b) about business policies and did not recall telling Mx. § 87(2)(b) “I don’t give a shit about your policies,” or using any profanities.

PO Ennis stated that he stood next to Det. Eisenberg as Det. Eisenberg spoke with Mx. § 87(2)(b) at the game stand (Board Review 13). PO Ennis also did not recall hearing Det. Eisenberg say, “I don’t give a shit about your policies,” or hearing him use any profanities.

§ 87(2)(b), § 87(2)(g)

Allegation B- Discourtesy: Detective Mitchell Eisenberg entered § 87(2)(b) in Brooklyn.

It is undisputed that Det. Eisenberg pushed the door and reached his hand over the door in an attempt to unlock the latch as this action is depicted in the video evidence.

In her CCRB statement, § 87(2)(b) stated that she told Mx. § 87(2)(b) to inform Det. Eisenberg that she could not access the video footage and to have them come back the following day (Board Review 03). § 87(2)(b) did not hear the conversation between Mx. § 87(2)(b) and Det. Eisenberg, but as Mx. § 87(2)(b) was walking back to her, Det. Eisenberg subsequently walked towards the door by the counter and attempted to open the door by pushing it. § 87(2)(b) asked Det. Eisenberg what he was doing and Det. Eisenberg stated, “You have footage and we want to see the footage.” § 87(2)(b) offered to provide the officers with the video the following day and told Det. Eisenberg that he could not just walk inside. Det. Eisenberg subsequently leaned over the door and tried to open the latch on the door. § 87(2)(b) subsequently placed her foot

against the door and told Det. Eisenberg that he could not go inside. Det. Eisenberg did not successfully enter the premises and he and PO Ennis left shortly after in response to § 87(2)(b)'s refusal to allow Det. Eisenberg inside.

In Mx. § 87(2)(b)'s CCRB statement, Mx. § 87(2)(b) also stated that Det. Eisenberg reached over and pushed the door by the counter as he was speaking with § 87(2)(b) (Board Review 02). She saw Det. Eisenberg push the door two or three times and in response, § 87(2)(b) placed her foot under the door to prevent the door from being pushed opened.

In his CCRB testimony, Det. Eisenberg stated that Mx. § 87(2)(b) informed him that the person with access to the cameras was not available and Mx. § 87(2)(b) told him to come back (Board Review 11). Det. Eisenberg told Mx. § 87(2)(b) that he knew how to operate the systems and asked if he could come in as he placed his hand on top of the swing door. Det. Eisenberg stated that he attempted to enter the premise by pulling the door approximately an inch or two ajar. Det. Eisenberg affirmed that the door was initially fully closed and was not ajar. He did not recall if there was a lock on the door nor did he recall attempting to unlock the door. After he reviewed the video obtained from § 87(2)(b)'s game stand during his CCRB testimony, Det. Eisenberg stated that did not have an independent recollection of reaching over the door to unlock the latch and he did not recall what he was doing with his hand while it was placed on the latch.

In his CCRB testimony, PO Ennis stated that he recalled Det. Eisenberg asking a female if he could obtain video surveillance (Board Review 13). However, he did not recall Det. Eisenberg attempting to open a door or unlocking a door. After they were denied access to the video footage PO Ennis and Det. Eisenberg left the location.



2017-12-20_20-38-39.mp4

The Snagit clip of the video footage obtained from § 87(2)(b)'s game which depicts the hours between 22:59:57 on 07/28/2017 to 00:00:00 on 07/29/2017, captured Det. Eisenberg placing his hand on top of the swing door and rattling it without opening it (Board Review 34). A still photo capture taken from the video depicts Det. Eisenberg reaching his hand over the door and then placing it above the lock (Board Review 20). When § 87(2)(b) enters the frame, Det. Eisenberg removes his hand from the latch. A still image of the video depicts a swing door with a lock on the left side can be seen at the bottom of the screen (Board Review 17).

The Fourth Amendment of the United States Constitution protects the rights of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures (Board Review 26).

The court recognized that a defendant has a reasonable expectation of privacy in a private office, United States v. Driver, 776F.2d 807 (1985) (Board Review 25).

there was video footage at a game stand, a female was uncooperative with showing the video from the game stand, and that he might get a search warrant to obtain the video footage (Board Review 15). Det. Eisenberg's CCRB testimony was generally consistent in regards to what he informed a supervisor, but he did not say that he told a supervisor he might get a search warrant (Board Review 11). Capt. Ceparano stated that after speaking with Det. Eisenberg, he intended to go to the location to speak with the female to see if the female was going to be cooperative or if he would need to have the detective get a search warrant. Capt. Ceparano stated that whenever there is an incident of something "major" like an officer getting assaulted, detectives have to conduct an "enhancement" which includes canvassing for video to ensure that sufficient evidence is obtained and to avoid putting uninvolved people through the system, which was a concern Capt. Ceparano had during the incident (Board Review 15).

At the game stand, Capt. Ceparano told § 87(2)(b) that it was crucial that she cooperate if she had any video footage. In response, § 87(2)(b) told him that she did not like the way the initial detective, identified via the investigation as Det. Eisenberg, treated her and that she was not going to show the video. § 87(2)(b) subsequently requested a search warrant. Capt. Ceparano stated that to his understanding, if a civilian refuses to provide video footage from a business the police would freeze the location and get a search warrant. Capt. Ceparano stated that that to his understanding, he needed some type of information on the owner or the location to aid in getting a search warrant. However, Capt. Ceparano was unable to obtain any information from § 87(2)(b) because § 87(2)(b) refused to provide her ID and business certificate. Capt. Ceparano stated that he did not know how long it would take to obtain a search warrant and during his second CCRB testimony, Capt. Ceparano stated that as an Executive Officer he is not routinely required to apply for search warrants and is not usually involved in the search warrant application process (Board Review 16).

During his initial CCRB interview, Capt. Ceparano stated that it was important to obtain video footage because there are instances where video footage is erased after 24 hours and he felt that he needed to get the video as quickly as possible. In his second CCRB interview, Capt. Ceparano affirmed that he did not know what type of surveillance system § 87(2)(b) had (Board Review 16). Capt. Ceparano stated that § 87(2)(b)'s uncooperative demeanor made him believe that she was going to intentionally delete the video footage (Board Review 15). Capt. Ceparano stated that § 87(2)(b) could have been arrested for Obstruction of Governmental Administration (OGA) because she was interfering with an investigation, was not showing the video, and was not providing her Consumer Affairs license. During the incident, Capt. Ceparano informed § 87(2)(b) "If you don't provide the video and I can't get the information for the search warrant, you will be arrested."

PO Kessler's testimony was generally consistent with what Capt. Ceparano stated in regards to § 87(2)(b)'s refusal to provide a business license and information pertaining to the ownership of the location (Board Review 12). PO Kessler did not recall Capt. Ceparano threatening to arrest § 87(2)(b) and stated that he did not observe § 87(2)(b) committing any crimes which she could have been arrested for.

PO Patrick Kurek, who was assigned to the 60th Precinct Summer Detail at the time of incident, stated that he did not recall what prompted him to approach § 87(2)(b)'s game stand, but he

was looking for surveillance cameras during the incident and he saw that the game stand had cameras pointing to the location where the officer was assaulted (Board Review 14). When he approached the game stand, Capt. Ceparano and PO Kessler were already speaking with § 87(2)(b) but he did not recall what was said. PO Kurek denied hearing Capt. Ceparano threatening to arrest § 87(2)(b) for not providing video footage or not having a business license displayed. PO Kurek stated that he did not believe § 87(2)(b) could have been arrested for refusing to provide video footage and he stated that civilians are allowed to refuse to provide video footage.

A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act, New York Penal Law Section 195.05 (Board Review 23).

NYPD Legal Bureau Bulletin Vol. 46, No.2 (May 20, 2016), states that when a police officer has probable cause to believe that a recording contains evidence of a crime, he or she should inform the observer that the recording is believed to contain evidence of a crime, and ask for consent to examine the recording (Board Review 28). It should be noted that this consent to view must be freely and voluntarily given. If the observer refuses, the officer should inform the observer that he or she will seek a search warrant for the device. If the officer has reason to believe that the observer will delete the recording, he or she may seize the device, without looking in the device, and only for the time necessary to secure a warrant. Supervisors must be familiar with this bulletin and prepared to take immediate remedial action in the field to ensure the Constitutional rights of individuals are protected.

According to the Legal Bureau Bulletin, § 87(2)(b) was not required to provide video footage to the officers and that officers may ask for consent, but the consent must be voluntary; thus her refusal does not constitute an obstruction of governmental administration or any crime.

Capt. Ceparano, who is a member of the NYPD for 13 years, is required to be familiar with the proper procedures set forth by the Legal Bureau so that he can properly perform his supervisory duties as a captain. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

However, Capt. Ceparano did not take any action in an attempt to freeze the location or apply for a search warrant.

§ 87(2)(b), § 87(2)(g)

Allegation D- Abuse of Authority: Captain Bruce Ceparano threatened to arrest § 87(2)(b)

It is undisputed that Capt. Ceparano threatened to arrest § 87(2)(b) for not producing a business license.

In her CCRB statement, § 87(2)(b) stated that she told Capt. Ceparano that she did not need a business license, but Capt. Ceparano repeatedly threaten to arrest her if she did not provide video footage and for not having a business license displayed on the wall.

Mx. § 87(2)(b) stated that she also heard Capt. Ceparano say, “If you can’t provide a business license, I’m going to arrest you” (Board Review 02).

In his CCRB testimony, Capt. Ceparano stated that he requested § 87(2)(b) s ID and business certificate upon § 87(2)(b) requesting him to get a search warrant because he needed information pertaining to the location, but § 87(2)(b) was uncooperative with providing any of the information. Additionally, during his CCRB interview, Capt. Ceparano stated, “I’m not privy to the law on business certificates, but I’m pretty sure at an amusement game like this that’s ran in that building, you need some type of Consumer Affairs license or Certificate of Occupancy license to run a business.” Capt. Ceparano told § 87(2)(b) that she was impeding an investigation and told her, “You can get arrested for OGA and possibly not having licenses on the walls.” Capt. Ceparano also told § 87(2)(b) “If you don’t provide the video and I can’t get the information for the search warrant, you will be arrested,” and informed her that she could be arrested if she did not have a business license. Capt. Ceparano stated that § 87(2)(b) could have been arrested for Obstruction of Governmental Administration (OGA) because she was interfering with an investigation, was not showing the video, and was not providing her Consumer Affairs license. Capt. Ceparano also stated that she could have been arrested for OGA for not showing a business certificate or proof that she was a manager.

When asked if § 87(2)(b) could have been arrested for anything else in addition to OGA, Capt. Ceparano stated that she could have possible been arrested for violating “general business law” for not producing a Consumer Affairs license. Capt. Ceparano stated that he would have needed to call the NYPD Legal Bureau to inquire about the appropriate charge. During his initial CCRB interview, Capt. Ceparano stated that he did not intend to arrest § 87(2)(b) or get a search warrant without first calling the NYPD Legal Bureau to ensure that he would be correct in doing so because he is not an expert at Consumer Affairs licenses. Capt. Ceparano stated that he did not speak with the NYPD Legal Bureau during the incident because it was time sensitive and he was not sure if the NYPD Legal Bureau was open at that time of night. Additionally, he stated that he would have to have spoken to an attorney on duty if the NYPD Legal Bureau was closed.

On March 6, 2018, a search of the New York State Department of State website indicated that § 87(2)(b) is classified as a “Domestic Business Corporation.” On the same day, the undersigned called the NYS Department of State Division of Corporations and was informed that the NYS Department of State does not provide licenses for business entities such as § 87(2)(b) but confirmed that “§ 87(2)(b) is listed with the Division of Corporations.

Furthermore, the NYS Department of State does not require “§ 87(2)(b)” to have any sort of licenses.

On March 8, 2018, the undersigned called NYS Sales Tax Department and was informed that “§ 87(2)(b)” is not registered with the NYS Sales Tax Department so they do not require the business to have any licenses.

On March 13, 2018, the undersigned called NYC Department Consumer Affairs Licensing Division and was informed that the game stands located on the Coney Island boardwalk generally would be required to have an Arcade License or an Amusement Park Device. In order to obtain information specific to this location, the investigation followed up with the Department of Consumer Affairs. On March 29, Andrew Schwenk, Staff Counsel for the NYC Department of Consumer Affairs, noted that given the games and description of “§ 87(2)(b)” it appears that the business is not required to have a license from the Department of Consumer Affairs and that he was not aware of any other agencies that would require the business to be licensed.

Capt. Ceparano, who believed that he needed to obtain information from “§ 87(2)(b)” before requesting a search warrant, stated that he lacked the expertise to apply for a search warrant, and that he would have to contact the Legal Bureau beforehand. At the time of incident, Capt. Ceparano was not aware whether or not “§ 87(2)(b)”’s game stand was required to have a business license and admitted that he was not certain what she would be charged with if she were to be arrested. Capt. Ceparano stated that he would have to call the Legal Bureau in order to ascertain the charge, but, by his own admission, he did not do so.

After exhaustive inquires to multiple government agencies, based on the description of type of games at the “§ 87(2)(b)” the NYC Department of Consumer Affairs indicated that such businesses do require any licenses. Thus, there was no probable cause to arrest “§ 87(2)(b)” for not producing a business license.

§ 87(2)(b), § 87(2)(g)

Allegation E- Abuse of Authority: Captain Bruce Ceparano threatened “§ 87(2)(b)” with the use of force.

Allegation F- Abuse of Authority: Captain Bruce Ceparano spoke discourteously to

“§ 87(2)(b)”

It is undisputed that Capt. Ceparano interacted with a third civilian during the incident and he displayed either a baton or pepper spray. “§ 87(2)(g)”

In her CCRB testimony, § 87(2)(b) stated at some point during her interaction with Capt. Ceparano, a male individual walked towards § 87(2)(b)'s business and asked Mx. § 87(2)(b) if she was alright (Board Review 03). The individual was standing approximately one or two feet away from Capt. Ceparano. In response, Capt. Ceparano extended his baton by swinging it towards the ground and telling this individual to “back the fuck up.”

Mx. § 87(2)(b) denied seeing any officers with their batons displayed and she did not complain of an incident similar to what § 87(2)(b) witnessed (Board Review 02).

The investigation was unable to identify this male individual because he did not file a complaint and was not identified by the complainant/victims.

In his CCRB testimony, Capt. Ceparano stated that he recalled a male individual who was “getting too close” while Capt. Ceparano was speaking to one of the females at the game stand (Board Review 15). Capt. Ceparano stated that this individual was invading his space and that there was no need for him to be so close. While this individual was standing approximately three to six feet away from Capt. Ceparano, the individual cursed at Capt. Ceparano under his breath. Capt. Ceparano stated that he felt threatened at this point because he was either alone or with Lt. James Vroman and also stated, “The only thing he could do there is pretty much harm me.” Lt. Vroman is currently assigned to the 71st Precinct, but he was assigned to the 60th Precinct at the time of incident. Capt. Ceparano told the individual that he had to back up more than once, but the individual did not comply with his commands. In his CCRB interview, Capt. Ceparano initially stated that he might have taken out his baton and opened it because he wanted the individual to back up. He stated that he did not take his baton out to strike the individual. After taking his baton out, Capt. Ceparano heard the individual’s friends telling the individual to get back. In response, the individual left. Additionally, Capt. Ceparano did not recall cursing during the incident. After Capt. Ceparano reviewed the video footage during his CCRB interview, Capt. Ceparano stated that the male with the red cap was the male individual who was standing too close to him. Capt. Ceparano stated that from watching the video, he believes that he was actually holding his pepper spray and not his baton as he initially stated.

PO Kurek did not recall if he saw any male civilians approaching the game stand and did not recall hearing Capt. Ceparano telling anyone to back up, step back, or “back the fuck up” (Board Review 14). Additionally, he denied hearing Capt. Ceparano using any profanities. PO Kurek did not recall if he had any concerns regarding a male civilian approaching the game stand. PO Kurek also did not recall if he saw Capt. Ceparano with his baton out.

PO Kessler stated that he only observed one individual by the game stand during the incident (Board Review 12). PO Kessler stated that this individual was just standing by the game stand briefly at the beginning and may have walked away. PO Kessler stated that Capt. Ceparano did not speak to this individual. PO Kessler did not see Capt. Ceparano take his baton out and swing it while telling a male to “back the fuck up.” PO Kessler did not hear Capt. Ceparano using any profanities.



2017-12-21_9-12-10.mp4

A Snagit clip of the video footage obtained from § 87(2)(b)'s game stand, which depicts between the hours of 00:00:00 - 00:57:48 on 07/29/2017, captured a male with a red cap appearing from the right side of the screen as Capt. Ceparano turns to this individual (Board Review 35). The male then leans over the counter near a female who is standing behind the counter. The male is smoking a cigarette and appears to be speaking with the female. The male is standing to the right of Capt. Ceparano, slightly over an arm's reach away. Capt. Ceparano turns to this male and raises right his arm and points to his right while holding an unknown black object in his right hand; the object is partially covered by Capt. Ceparano's hand. The male individual walks further to the left of the screen and stops by the middle of the game stand. Capt. Ceparano subsequently walks to the right of the screen and out of the camera's frame. The interaction lasted for approximately a minute.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation G- Abuse of Authority: Captain Bruce Ceparano threatened to arrest individuals.

In neither her initial CCRB phone statement nor in her CCRB testimony, did Mx. § 87(2)(b) say that she saw Capt. Ceparano speaking with any individuals who approached the game stand (Board Review 01 and 02). During a follow up call with Mx. § 87(2)(b) for additional information, Mx. § 87(2)(b) stated that she recalled her two male cousins, § 87(2)(b) and "§ 87(2)(b) were standing by the game stand and they were asking if they were alright (Board Review 08). As "§ 87(2)(b) and "§ 87(2)(b) were standing by the counter for approximately five minutes, Capt. Ceparano told them, "You leave now. Step away from the counter or I'm going to arrest you." Capt. Ceparano threatened to arrest "§ 87(2)(b) and "§ 87(2)(b) approximately three times before they walked away.

§ 87(2)(b) stated that she only heard Capt. Ceparano yelling at people and telling them to leave (Board Review 03). However, § 87(2)(b) did not say whether or not she heard Capt. Ceparano threatening to arrest any individuals who approached her store.

“§ 87(2)(b) and “§ 87(2)(b) did not provide a statement to the CCRB. Mx. § 87(2)(b) stated that she did not have any contact information for “§ 87(2)(b) and “§ 87(2)(b) and would provide their information to the undersigned whenever she sees them. To date, Mx. § 87(2)(b) has not contacted the undersigned with any additional information regarding “§ 87(2)(b) and “§ 87(2)(b) and neither “§ 87(2)(b) nor “§ 87(2)(b) filed a complaint in regards to this incident.

During his second CCRB testimony, Capt. Ceparano stated the initially saw people by the next booth playing a water shooting game (Board Review 16). Capt. Ceparano did not recall interacting with two males who were together at § 87(2)(b)'s game stand. Additionally, he did not know if two males had spoken with either § 87(2)(b) or Mx. § 87(2)(b). Capt. Ceparano stated that aside from the male who he interacted with, as discussed above, he did not have any additional concerns with other civilians being too close. Capt. Ceparano did not recall telling two male civilians to back up. Capt. Ceparano did not recall threatening any male civilians or inform them that they could be arrested.

The video footage obtained from § 87(2)(b)'s game stand does not depict Capt. Ceparano speaking with two male who were together (Board Review 22).

§ 87(2)(b), § 87(2)(g)

Allegation H- Abuse of Authority: Captain Bruce Ceparano participated in the entry into § 87(2)(b) in Brooklyn.

As stated above, it is undisputed that § 87(2)(b) initially denied Det. Eisenberg entry into her business. In her CCRB testimony, § 87(2)(b) stated she informed Capt. Ceparano that she had already explained to the initial officers that she was not going to give them video footage (Board Review 03). Capt. Ceparano subsequently stated that she as going to give them video footage and proceeded to threaten to arrest her and threatened to call the Department of Buildings to have § 87(2)(b)'s business closed down. Eventually § 87(2)(b) allowed PO Ennis, Det. Frank Ciccone, PO Kurek, and PO Kessler to enter her game stand to view the video footage.

As stated in the above allegation, Capt. Ceparano affirmed that he threatened to arrest § 87(2)(b) for not providing video footage and for not presenting her business license (Board Review 15). During his second CCRB interview, Capt. Ceparano specifically stated that he only wanted to see the video footage to confirm whether or not the video footage had any value during the incident (Board Review 16).

The video footage obtained from § 87(2)(b) s game stand shows that Capt. Ceparano arrived at the game stand at 00:19:37 and the officers did not enter the game stand until 00:38:37 (Board Review 22).

The Fourth Amendment of the United States Constitution protects the rights of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures (Board Review 26).

The court recognized that the defendant had a reasonable expectation of privacy in a private office, United States v. Driver, 776F.2d 807 (185) (Board Review 25).

While the courts have routinely upheld that warrantless entries into homes are unreasonable, one exception to the warrant requirement is voluntary consent. Some of the factors of voluntariness are whether the consenter has been previously evasive or uncooperative with the law enforcement authorities and the number of agents present, People v. Gonzalez, 39 N.Y.2d 122 (Board Review 07).

The voluntariness of consent must be determined from the totality of the circumstances. United States v. Isiofia, 370 F.3d 266, identifies the length of presence at the location as well as the presence of the number of officer and coercive statements made, such as threats, as additional factors of voluntariness of consent (Board Review 27).

NYPD Legal Bureau Bulletin Vol. 46, No.2, states that when a police officer has probable cause to believe that a recording contains evidence of a crime, he or she should inform the observer that the recording is believed to contain evidence of a crime, and ask for consent to examine the recording (Board Review 28). It should be noted that this consent to view must be freely and voluntarily given. If the observer refuses, the officer should inform the observer that he or she will seek a search warrant for the device. If the officer has reason to believe that the observer will delete the recording, he or she may seize the device, without looking in the device, and only for the time necessary to secure a warrant. Supervisors must be familiar with this bulletin and prepared to take immediate remedial action in the field to ensure the constitutional rights of individuals are protected.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) and Mx. § 87(2)(b) (Board review 29 and 32).
- Capt. Ceparano has been a member of the NYPD for 13 years and has had 19 prior CCRB allegations pleaded against him in 11 cases. § 87(2)(g)
- Det. Eisenberg has been a member of the NYPD for 21 years and has had nine prior CCRB allegations pleaded against him in four cases. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation during her CCRB interview.
- § 87(2)(b) Mx. § 87(2)(b) and § 87(2)(b) have not filed a Notice of Claim in regards to this incident (Board Review 31).
- Neither § 87(2)(b) nor Mx. § 87(2)(b) has a criminal record in New York City (Board Review 30 and 33).

Squad No.: _____

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date